

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ADLER DARWIN CANO
VILLATORO,

Petitioner,

v.

JANET NAPOLITANO,

Respondent.

NO. C10-5875 TEH

ORDER TO SHOW CAUSE;
ORDER VACATING CASE
MANAGEMENT CONFERENCE

The Court is in receipt of the parties' joint case management statement filed on March 22, 2011, indicating that the mandate will soon issue in *Singh v. Napolitano*, 619 F.3d 1101 (9th Cir. 2010). It appears that *Singh* bars the pending habeas petition because Petitioner "did not exhaust his available administrative remedies" by "first fil[ing] a motion to reopen with the Board before bringing his habeas petition in district court." *Id.* at 1105. In the March 22 joint statement, Petitioner argued that *Singh*, which dealt with a claim of ineffective assistance of counsel, does not apply to his petition claiming fraud perpetrated by a former attorney not authorized to practice law. However, in Petitioner's traverse, he argued that his fraud claim constitutes ineffective assistance of counsel. Traverse 8:1-17 (January 24, 2011) (citing *Lopez v. INS*, 184 F.3d 1097 (9th Cir. 1999)). Accordingly, no later than fourteen (14) days after the issuance of a mandate in *Singh*, Petitioner is HEREBY ORDERED TO SHOW CAUSE in writing as to why, in light of *Singh*, his petition should not be dismissed. Unless otherwise ordered, this matter will then be taken under submission.

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1 The case management conference scheduled for Monday, March 28, 2011, is hereby
2 VACATED.

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4 **IT IS SO ORDERED.**

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6 Dated: 3/24/11



THELTON E. HENDERSON, JUDGE
UNITED STATES DISTRICT COURT